

Senate File 512 - Enrolled

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1 1 SENATE FILE 512
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1 3 AN ACT
1 4 RELATING TO THE REGULATION OF PHARMACY BENEFITS MANAGERS AND
1 5 MAKING PENALTIES APPLICABLE, AND PROVIDING AN EFFECTIVE DATE.
1 6
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 8
1 9 Section 1. NEW SECTION. 510B.1 DEFINITIONS.
1 10 As used in this chapter, unless the context otherwise
1 11 requires:
1 12 1. "Commissioner" means the commissioner of insurance.
1 13 2. "Covered entity" means a nonprofit hospital or medical
1 14 services corporation, health insurer, health benefit plan, or
1 15 health maintenance organization; a health program administered
1 16 by a department or the state in the capacity of provider of
1 17 health coverage; or an employer, labor union, or other group
1 18 of persons organized in the state that provides health
1 19 coverage. "Covered entity" does not include a self-funded
1 20 health coverage plan that is exempt from state regulation
1 21 pursuant to the federal Employee Retirement Income Security
1 22 Act of 1974 (ERISA), as codified at 29 U.S.C. } 1001 et seq.,
1 23 a plan issued for health coverage for federal employees, or a
1 24 health plan that provides coverage only for accidental injury,
1 25 specified disease, hospital indemnity, Medicare supplemental,
1 26 disability income, or long-term care, or other limited benefit
1 27 health insurance policy or contract.
1 28 3. "Covered individual" means a member, participant,
1 29 enrollee, contract holder, policyholder, or beneficiary of a
1 30 covered entity who is provided health coverage by the covered
1 31 entity, and includes a dependent or other person provided
1 32 health coverage through a policy, contract, or plan for a
1 33 covered individual.
1 34 4. "Generic drug" means a chemically equivalent copy of a
1 35 brand-name drug with an expired patent.
2 1 5. "Labeler" means a person that receives prescription
2 2 drugs from a manufacturer or wholesaler and repackages those
2 3 drugs for later retail sale and that has a labeler code from
2 4 the federal food and drug administration pursuant to 21 C.F.R.
2 5 } 207.20.
2 6 6. "Pharmacy" means pharmacy as defined in section 155A.3.
2 7 7. "Pharmacy benefits management" means the administration
2 8 or management of prescription drug benefits provided by a
2 9 covered entity under the terms and conditions of the contract
2 10 between the pharmacy benefits manager and the covered entity.
2 11 8. "Pharmacy benefits manager" means a person who performs
2 12 pharmacy benefits management services. "Pharmacy benefits
2 13 manager" includes a person acting on behalf of a pharmacy
2 14 benefits manager in a contractual or employment relationship
2 15 in the performance of pharmacy benefits management services
2 16 for a covered entity. "Pharmacy benefits manager" does not
2 17 include a health insurer licensed in the state if the health
2 18 insurer or its subsidiary is providing pharmacy benefits
2 19 management services exclusively to its own insureds, or a
2 20 public self-funded pool or a private single employer
2 21 self-funded plan that provides such benefits or services
2 22 directly to its beneficiaries.
2 23 9. "Prescription drug" means prescription drug as defined
2 24 in section 155A.3.
2 25 10. "Prescription drug order" means prescription drug
2 26 order as defined in section 155A.3.
2 27 Sec. 2. NEW SECTION. 510B.2 CERTIFICATION AS A
2 28 THIRD-PARTY ADMINISTRATOR REQUIRED.
2 29 A pharmacy benefits manager doing business in this state
2 30 shall obtain a certificate as a third-party administrator
2 31 under chapter 510, and the provisions relating to a
2 32 third-party administrator pursuant to chapter 510 shall apply
2 33 to a pharmacy benefits manager.
2 34 Sec. 3. NEW SECTION. 510B.3 ENFORCEMENT == RULES.
2 35 1. The commissioner shall enforce the provisions of this
3 1 chapter.
3 2 2. The commissioner shall adopt rules pursuant to chapter
3 3 17A to administer this chapter including rules relating to all
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3 4 of the following:

3 5 a. Timely payment of pharmacy claims.

3 6 b. A process for adjudication of complaints and settlement

3 7 of disputes between a pharmacy benefits manager and a licensed

3 8 pharmacy related to pharmacy auditing practices, termination

3 9 of pharmacy agreements, and timely payment of pharmacy claims.

3 10 Sec. 4. NEW SECTION. 510B.4 PERFORMANCE OF DUTIES ==

3 11 GOOD FAITH == CONFLICT OF INTEREST.

3 12 1. A pharmacy benefits manager shall perform the pharmacy

3 13 benefits manager's duties exercising good faith and fair

3 14 dealing in the performance of its contractual obligations

3 15 toward the covered entity.

3 16 2. A pharmacy benefits manager shall notify the covered

3 17 entity in writing of any activity, policy, practice ownership

3 18 interest, or affiliation of the pharmacy benefits manager that

3 19 presents any conflict of interest.

3 20 Sec. 5. NEW SECTION. 510B.5 CONTACTING COVERED

3 21 INDIVIDUAL == REQUIREMENTS.

3 22 A pharmacy benefits manager, unless authorized pursuant to

3 23 the terms of its contract with a covered entity, shall not

3 24 contact any covered individual without the express written

3 25 permission of the covered entity.

3 26 Sec. 6. NEW SECTION. 510B.6 DISPENSING OF SUBSTITUTE

3 27 PRESCRIPTION DRUG FOR PRESCRIBED DRUG.

3 28 1. The following provisions shall apply when a pharmacy

3 29 benefits manager requests the dispensing of a substitute

3 30 prescription drug for a prescribed drug to a covered

3 31 individual:

3 32 a. The pharmacy benefits manager may request the

3 33 substitution of a lower priced generic and therapeutically

3 34 equivalent drug for a higher priced prescribed drug.

3 35 b. If the substitute drug's net cost to the covered

4 1 individual or covered entity exceeds the cost of the

4 2 prescribed drug, the substitution shall be made only for

4 3 medical reasons that benefit the covered individual.

4 4 2. A pharmacy benefits manager shall obtain the approval

4 5 of the prescribing practitioner prior to requesting any

4 6 substitution under this section.

4 7 3. A pharmacy benefits manager shall not substitute an

4 8 equivalent prescription drug contrary to a prescription drug

4 9 order that prohibits a substitution.

4 10 Sec. 7. NEW SECTION. 510B.7 DUTIES TO PHARMACY NETWORK

4 11 PROVIDERS.

4 12 1. A pharmacy benefits manager shall not mandate basic

4 13 recordkeeping that is more stringent than that required by

4 14 state or federal law or regulation.

4 15 2. If a pharmacy benefits manager receives notice from a

4 16 covered entity of termination of the covered entity's

4 17 contract, the pharmacy benefits manager shall notify, within

4 18 ten working days of the notice, all pharmacy network providers

4 19 of the effective date of the termination.

4 20 3. Within three business days of a price increase

4 21 notification by a manufacturer or supplier, a pharmacy

4 22 benefits manager shall adjust its payment to the pharmacy

4 23 network provider consistent with the price increase.

4 24 Sec. 8. PHARMACY BENEFITS MANAGER LEGISLATIVE INTERIM

4 25 COMMITTEE. The legislative council is requested to establish

4 26 a legislative interim committee on pharmacy benefits managers

4 27 to review all of the following:

4 28 1. Transparency and disclosure arrangements between

4 29 pharmacy benefits managers and covered entities.

4 30 2. Confidentiality protections for information disclosed

4 31 to covered entities and remedies for unauthorized disclosure.

4 32 3. The ability of covered entities to audit pharmacy

4 33 benefits managers.

4 34 4. Appropriate remedies for covered entities to enforce a

4 35 provision of or for violation of a provision of chapter 510B,

5 1 as enacted in this Act.

5 2 Sec. 9. EFFECTIVE DATE == DIRECTIVE TO COMMISSIONER OF

5 3 INSURANCE.

5 4 1. This Act takes effect January 1, 2008.

5 5 2. Notwithstanding the effective date of this Act, the

5 6 commissioner of insurance shall commence the process of

5 7 developing proposed rules to implement and administer this Act

5 8 beginning July 1, 2007.

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5 12 JOHN P. KIBBIE

5 13 President of the Senate

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PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and
is known as Senate File 512, Eighty-second General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2007

CHESTER J. CULVER
Governor